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Special Litigation Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:
USA COMMERCIAL MORTGAGE COMPANY,

Debtor.

In re:
USA CAPITAL REALTY ADVISORS, LLC,

Debtor.

In re:
USA CAPITAL DIVERSIFIED TRUST DEED FUND,
LLC,

Debtor.

In re:
USA CAPITAL FIRST TRUST DEED FUND, LLC,

Debtor.

In re:
USA SECURITIES, LLC,

Debtor.

Affects:
☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

Case Nos.:
BK-S-06-10725-LBR
BK-S-06-10726-LBR
BK-S-06-10727-LBR
BK-S-06-10728-LBR
BK-S-06-10729-LBR

JOINTLY ADMINISTERED
Chapter 11 Cases

Judge Linda B. Riegler

**USACM LIQUIDATING
TRUST'S MOTION TO APPEAR
WITHOUT LOCAL COUNSEL
AT THE HEARING ON THE
MOTION TO COMPEL
PRODUCTION OF
DOCUMENTS BY WELLS
FARGO**

[No Hearing Required]

On February 5, 2008, the USACM Liquidating Trust (the "Trust") filed a Motion to Compel Production of Documents by Wells Fargo (the "Motion") (Docket No. 5782). After the Motion was filed, the Trust was notified by its local counsel – Lewis and Roca LLP – that Wells Fargo was one of Lewis and Roca LLP's clients, and, therefore, the local

1 counsel had a conflict of interest that prevented it from joining in the request stated in the
2 Motion. As a result, on February 6, 2008, the Trust filed its Errata to USACM Liquidating
3 Trust's Motion to Compel Production of Documents by Wells Fargo in which it removed
4 any references to Lewis and Roca LLP as the counsel pursuing the relief requested in the
5 Motion. (Docket No. 5792) The Trust also filed an Errata to USACM's Liquidating
6 Trust's Motion for Order Shortening Time removing any references to the local counsel
7 with respect to that motion. (Docket No. 5793) The notice of both Erratas has been
8 provided to Wells Fargo.

9 Each of the Diamond McCarthy attorneys appearing in this case have obtained this
10 Court's leave to appear pursuant to the Local District Court's rules and the rules of this
11 Court. Under those rules, this Court has discretion to waive the requirement that counsel
12 appearing on a limited basis associate with local counsel as co-counsel. Because of the
13 breadth of the USA Commercial Mortgage Company related cases, it is literally
14 impossible to find counsel that regularly appears before this Court, who do not have a
15 conflict, to serve as local counsel. Retaining local counsel unfamiliar with this Court and
16 its Local Rules would not serve the purposes of the requirement of local counsel as
17 envisioned by the Local Rules. Accordingly, there is good cause here to waive the
18 requirement of local counsel.

19 Currently, the Motion is scheduled for the hearing in front of this Court on
20 February 21, 2008 at 9:30 a.m. The Trust respectfully requests that the Court allow the
21 Trust to proceed at the hearing without the presence of local counsel. The Trust further
22 believes that this is a matter that may be considered by the Court on an *ex parte* basis and
23 accordingly has submitted a proposed form of order.
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1 Dated: February 13, 2008

2 **DIAMOND MCCARTHY LLP**

3 By: /s/ Eric D. Madden
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